

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

W12d

Filed:	08/08/02
49 th Day:	09/26/02
Staff:	JB
Staff Report:	8/22/02
Hearing Date:	9/11/02

Staff Report: Appeal Substantial Issue Determination

Appeal NumberA-3-SLO-02-066

Local Government.....San Luis Obispo County

Local Decision.....Approved with conditions, 07/05/02

Applicant.....Nick and Darcie Thille

AgentRuss Thompson

AppellantsCommissioners Sara Wan and Pedro Nava

Project LocationOn the north side of Highway 101 (between Spyglass and Avila Beach Drive), north of the City of Pismo Beach, (San Luis Bay Planning Area), San Luis Obispo County.

Project DescriptionLot line adjustment of two parcels (212 and 295 acres) that will result in two parcels of 20.16 and 483 acres. No future building site was submitted.

File DocumentsSan Luis Obispo County certified Local Coastal Program; San Luis Obispo County Coastal Development Permit Numbers COAL02-0016 and S010234L.

Staff Recommendation**Substantial Issue Raised**

Summary: The applicant proposes to adjust the lot line between two existing parcels (currently 291.63 and 212.15 acres each), to create parcels of 483.62 and 20.16 acres each. The parcels are located on the north side of Highway 101, north of the City of Pismo Beach, in San Luis Obispo County. The coastal zone boundary line bisects both parcels. The portions in the coastal zone are entirely within the Rural Lands land use category. Portions of the proposed development are located within the Ontario Ridge Sensitive Resource Area (SRA), as designated in the LCP, due to its important scenic backdrop for the coastal area of Avila Beach and Pismo Beach, as well as Avila Valley.

Staff recommends that the Commission determine that **a substantial issue** exists with respect to the grounds on which the appeal has been filed, because as approved by the County the lot line adjustment is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program (LCP) protecting visual and scenic resources.



California Coastal Commission
September 11, 2002 Meeting in Los Angeles

After adjusting lot lines, the resulting 20.16 acre parcel would be located entirely within the Ontario Ridge SRA. Moreover, the local approval fails to designate a building site for future development within the resulting parcel, making it impossible to evaluate the projects impacts on visual and scenic resources that were the basis of the SRA designation. More broadly, the lot line adjustment fails to achieve the “equal or better” criteria for lot line adjustments established by the LCP’s Real Property Division Ordinance as a result of these inconsistencies. **Therefore, staff recommends that the Commission find that a substantial issue is raised by the appellants’ contentions, and that the de novo hearing on the project be continued to a later date to allow for further evaluation of the project under the resource protection standards of the LCP.**

Staff Report Contents

I. Local Government Action	2
II. Summary Of Appellants’ Contentions	3
III. Standard of Review for Appeals	3
IV. Staff Recommendation On Substantial Issue	4
V. Recommended Findings and Declarations.....	4
A. Project Location and Description.....	4
B. Substantial Issue Determination.....	5
1. Visual and Scenic Resources	5
a. Appellants Contentions	5
b. Relevant LCP Provisions	5
c. Analysis.....	6

Exhibits

1. Vicinity Map
2. Land Use Map
3. Site Plan
4. Appellants’ Contentions
5. County Conditions of Approval
6. Correspondence from Applicant
7. Pismo Beach Sphere of Influence Map and Selected Excerpts
8. CCC Comment Letter

I. Local Government Action

The County of San Luis Obispo Planning Commission approved the proposed lot line adjustment on July 5, 2002, 1999, subject to 10 conditions (see Exhibit 4 for the County’s conditions).



II. Summary Of Appellants' Contentions

Please see Exhibit 4 for the full text of the appeal.

The appellants, Commissioners Wan and Nava, have appealed the final action taken by the County Planning Commission on the basis that approval of the project is inconsistent with the policies of the San Luis Obispo County Local Coastal Program protecting visual and scenic resources. The appellants also contend that the application for the lot line adjustment does not include the proposed access roads and future building sites, as required CZLUO Section 23.04.021(c)(7) of the LCP. More broadly, the lot line adjustment fails to achieve the “equal or better” criteria for lot line adjustments established by the LCP’s Real Property Division Ordinance as a result of these inconsistencies

III. Standard of Review for Appeals

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it contains sensitive coastal resource areas designated by the LCP for the protection of the visual and scenic resources.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to issue a coastal development permit. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the first public road and the sea.



IV. Staff Recommendation On Substantial Issue

The staff recommends that the Commission determine that a substantial issue exists with respect to some of the grounds on which the appeal was filed pursuant to Coastal Act Section 30603.

MOTION:

Staff recommends a “**NO**” vote on the following motion:

*“I move that the Commission determine that Appeal No. A-3-SLO-02-066 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a *de novo* hearing on the application, and adoption of the following resolution and findings.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-02-066 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

V. Recommended Findings and Declarations

A. Project Location and Description

The subject parcels are located on the north side of Highway 101, north of the City of Pismo Beach, in San Luis Obispo County. The coastal zone boundary line bisects both existing parcels. The portions of each parcel located in the coastal zone are entirely within the Rural Lands land use category. Large portions of the existing parcels are located within the Ontario Ridge Sensitive Resource Area (SRA), as designated in the LCP, due to its important scenic backdrop for the coastal area of Avila Beach and Pismo Beach, as well as Avila Valley. (Please see Exhibit 3 for existing and proposed lot configuration).

The applicant proposes to adjust the lot line between two existing parcels. Currently, Parcel One is 291.63 acres and Parcel Two is 212.15 acres. The proposed adjustment would increase Parcel One to approximately 483.62 acres and reduce Parcel Two to approximately 20.16 acres. The resulting 20.16 acre parcel (Parcel Two) would be located entirely within the Ontario Ridge SRA. As part of the proposed lot line adjustment, no future “building site” for Parcel Two has been designated. In addition, the County findings have no discussion of the purpose of the lot line adjustment, although a recent public review draft from the San Luis Obispo LAFCO discusses a proposal to incorporate the Thille site within the City of Pismo Beach Sphere of



Influence expansion with the intent of accommodating future development of approximately 200 visitor-serving units over 13.5 acres. Please see Exhibits 7 and 8 for excerpts from the City of Pismo Beach Draft Sphere of Influence Update of February 14, 2002, and related CCC staff comments.

B. Substantial Issue Determination

1. Visual and Scenic Resources

a. Appellants Contentions

The appellants raise the issue of visual and scenic resources as it relates to the proposed lot line adjustment (LLA) by questioning the project's conformance with Policy 4 of the LCP, and pursuant to Section 23.04.021 of Coastal Zone Land Use Ordinance (CZLUO). In addition, the appellant's contend that the lot line adjustment is inconsistent with CZLUO Section 23.07.164, requiring that new development not create significant adverse effects on the natural features of the site or vicinity that were the basis of the Sensitive Resource Designation. Lastly, the appellant's contend that the proposed LLA is inconsistent with Section 21.02.030 of the Real Property Division Ordinance of the LCP.

It should be noted that the original appeal contends inconsistencies with CZLUO Section 23.04.025, requiring that the minimum parcel size be evaluated by the site's average slope, among other features. The County failed to require this slope determination. Subsequent to filing this appeal, the Applicant provided the required average slope calculations. Based on the information presented, it appears that the resulting 20.16 acre parcel has an average slope of 24.3% and therefore meets the LCP minimum parcel size requirement of 20 acres. As such, this appeal contention (#3 as attached) no longer raises a substantial issue and will not be analyzed in this report.

b. Relevant LCP Provisions

The following are the relevant governing provisions from the San Luis Obispo County Local Coastal Program *Coastal Plan Policies*, *Coastal Zone Land Use Ordinance*, and *Real Property Division Ordinance*, respectively:

Visual and Scenic Resource Policy 4: *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.04.021 OF THE CZLUO.]*



Section 23.04.021(c)(7) – Location of access roads and building sites. *Proposed access roads and building sites shall be shown on tentative maps and shall be located on slopes less than 20 percent.*

Section 23.07.164(e) – Required Findings. *(1) The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through site design.*

Section 21.02.030(c) of the Real Property Division Ordinance applies to the proposed lot line adjustment. This ordinance states:

Criteria to be Considered [for Lot Line Adjustments]. *A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform with the county's zoning and building ordinances. The criteria to be considered includes, but is not limited to, standards relating to parcel design and minimum lot area. These criteria may be considered satisfied if the resulting parcels maintain a position with respect to said criteria which is equal or better than such position prior to approval or conditional approval of the lot line adjustment.*

d. Analysis

The appellants' contentions raise valid concerns. Both existing parcels are located in a highly scenic area. In this case, the scenic area contains the Ontario Ridge Sensitive Resource Area, which provides a scenic backdrop for Avila Beach and Pismo Beach, as well as the Avila Valley. Although the County approved the lot line adjustment consistent with portions of the LCP, thorough review reveals that the proposed land division may have adverse impacts to important scenic and visual resources. Such impacts are inconsistent with the LCP protections for this area.

First, Policy 4 for Visual and Scenic Resources prohibits land divisions when the "only building site would be on a highly visible slope or ridgetop". In addition, CZLUO Section 23.07.164 states that development shall not create significant adverse effects on the natural features of the site or vicinity that were the basis for the SRA designation. After adjusting lot lines, the resulting 20.16 acre parcel would be located entirely within the Ontario Ridge Sensitive Resource Area (SRA). Any development of the 20.16 acre parcel would be highly visible on the slope. Visible development within scenic SRA's is inconsistent with the LCP policies and ordinances protecting visual and scenic resources.

Furthermore, CZLUO Section 23.04.021 (c) (7) require access roads and building sites be shown on tentative maps and shall be located on slopes less than 20 percent. The maps submitted by the Applicant, and used by the County to evaluate the project impacts, do not show these required elements. These maps would also important in evaluating the project's visual impacts because road cuts can sometimes be more visible than structural development. Without building sites and



roads being identified, it is impossible to gauge the potential impacts to the important visual and scenic resources of the area. This is inconsistent with the LCP.

The applicant asserts that a lot line adjustment is not a division of land and therefore neither Title 21 (County of San Luis Obispo Real Property Division Ordinance) nor Title 23 (Zoning Ordinance) applies to his project. It is well settled however that lot line adjustments are indeed divisions of land within the Coastal Act definition of development. In addition, the San Luis Obispo County LCP, Title 21.08.020(a) specifically includes lot line adjustments as a type of development that requires a CDP and is subject to the provisions of the Certified Local Coastal Program.

Finally, Section 21.02.030(c) of the Real Property Division Ordinance applies to the proposed lot line adjustment. This ordinance states that a lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the adjustment will maintain a position which is better than, or equal to, the existing situation relative to the County's zoning and building ordinance. The lot line adjustment will result in the reconfiguration of the two existing parcels. The reconfigured 20.16 acre parcel (Parcel Two) would be located immediately adjacent to US highway 101. It appears that any future development within the 20.16 acre parcel would be visible to north and southbound travelers. In essence, the lot line adjustment will create a lot and will force development into highly scenic SRA's and impact the area's sensitive visual resources. As a result, the lot line adjustment is not equal or better to the existing parcel configuration, in conflict with the requirements of 21.02.030(c).

In conclusion, critical components of the project are inconsistent with the LCP. The lot line adjustment approved by the County does not adequately address the scenic and visual resource impacts associated with the proposed lot line adjustment. **Therefore, a substantial issue is raised by the appellant's contentions.**

